

# **LAFCO** *of Monterey County*

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**KATE McKENNA, AICP**  
**Executive Officer**

DATE: February 22, 2010  
TO: Chair and Members of the Formation Commission  
FROM: Kate McKenna, AICP, Executive Officer  
**SUBJECT: CALAFCO LEGISLATIVE UPDATE**

## **SUMMARY OF RECOMMENDATION:**

It is recommended that the Commission receive this report and take no new position on legislation.

## **EXECUTIVE OFFICER'S REPORT:**

Attached is a report on State legislation currently being monitored by the California Association of Local Agency Formation Commissions (CALAFCO). The following two active bills may be of interest to the Commission but require no local action:

- **AB 419 (Caballero) – Local Government: Change of Organization or Reorganization: Elections.** This bill specifies that a Board of Supervisors or City Council has 45 days to place an item on the next general election ballot when requested by a LAFCO. Current law does not specify the number of days nor state what happens if the item is not placed on the ballot. If the Board or Council does not act within 45 days, the bill requires the election official to place the item on the next General Election ballot. Adds a requirement that LAFCO must notify the election official as well as the Board or Council of an item to be placed on the ballot. *CALAFCO supports.*

- **AB 853 (Arambula) – Local Government: Organization.** This bill provides a mechanism for residents to petition to a Board of Supervisors to be annexed to a city if they are within 1.5 miles of a boundary or within or adjacent to an existing city Sphere of Influence. It requires the Board to send a resolution to LAFCO for the annexation and requires LAFCO to approve the annexation. It creates new definitions for “Islands” and for “unincorporated fringe communities.” It also prohibits affected districts from terminating the annexation. *CALAFCO opposes unless amended.*

Please see a related report (Executive Officer’s Report, Agenda Item 10.a.) regarding the Commission’s administrative direction of January 25 concerning LAFCO and CALAFCO legislative priorities and processes.

Respectfully Submitted,

Kate McKenna, AICP  
Executive Officer

## LAFCO Legislative Update as of 2/11/2010

### 1

**AB (Caballero)** Local government: change of organization or reorganization: elections.  
**419**

**Last Amended:** 01/14/2010

**Status:** 01/28/2010-In Senate. Read first time. To Com. on RLS. for assignment.

**Current Location:** 01/28/2010-S RLS.

2YR/Dead	1st Desk	1st Policy	1st Fiscal	1st Floor	2nd Desk	2nd Policy	2nd Fiscal	2nd Floor	Conf./Conc.	Enrolled	Vetoed	Chaptered

Existing law requires a local agency formation commission to inform a board of supervisors or a city council when the commission makes a determination that will require an election to be conducted by that board or council, and requires the board of supervisors or the city council to direct the elections official to conduct the necessary election, as specified. This bill would , beginning January 1, 2011, require the board of supervisors or the city council to take action, to order and place the item on the ballot, within 45 days of notification by the local agency formation commission, and would require the elections official to place the item on the ballot at the next regular election if the board of supervisors or the city council fails to take action within 45 days of the notification. This bill would also make conforming changes.

**Attachments:**

[CALAFCO Support Letter](#)

**Notes:** This bill was a gut-and-amend to specify that a Board or Council has 45 days to place an item on the next general election ballot when requested by a LAFCo. Current law does not specify the number of days nor state what happens if the item is not placed on the ballot. If the Board or Council does not act within 45 days it requires the election official to place the item on the next General Election ballot. Adds a requirement that LAFCo must notify the election official as well as the Board or Council of an item to be placed on the ballot. It provides clarity to the process.

**Position:** Support

**Priority:** 1

**AB 853** (Arambula) Local government: organization.

**Last Amended:** 05/18/2009

**Status:** 06/11/2009-Referred to Coms. on L. GOV. and RLS.

**Current Location:** 06/11/2009-S L. GOV.

2YR/Dead	1st Desk	1st Policy	1st Fiscal	1st Floor	2nd Desk	2nd Policy	2nd Fiscal	2nd Floor	Conf./Conc.	Enrolled	Vetoed	Chaptered

The Cortese-Knox-Hertzberg Act of 2000 governs the organization and reorganization of local governmental entities, including, among other things, the annexation of island territories to a city or county. This bill would provide procedures for annexing unincorporated fringe communities and unincorporated island communities , as defined, to a city under specified circumstances, including provisions for a revenue neutrality agreement between the affected local government entities.

**Attachments:**

[CALAFCO Letter of Concern](#)

**Notes:** This bill provides a mechanism for residents to petition to a Board of Supervisors to be annexed to a city of they are within 1.5 miles of a boundary or within or adjacent to an existing city SOI. It requires the Board to send a resolution to LAFCo for the annexation and requires LAFCo to approve the annexation. It creates new definitions for "Islands" and for "unincorporated fringe communities." It also prohibits affected districts from terminating the annexation. This bill is sponsored by California Rural Legal Assistance and is tied to their other bill, SB 194. CALAFCO has significant concerns and is working with the author and sponsor on language before taking a position.

**Position:** Oppose unless amended

**Priority:** 1

**AB 1109**    **(Blakeslee) The Cortese-Knox-Hertzberg Act of 2000.**

**Last Amended:** 04/13/2009

**Status:** 01/22/2010-Failed Deadline pursuant to Rule 61(b)(2). (Last location was 2 YEAR on 6/8/2009)

**Current Location:** 01/22/2010-A DEAD

2YR/Dead	1st Desk	1st Policy	1st Fiscal	1st Floor	2nd Desk	2nd Policy	2nd Fiscal	2nd Floor	Conf./Conc.	Enrolled	Vetoed	Chaptered

The Cortese-Knox-Hertzberg Act of 2000 authorizes a local agency formation commission to, among other things, initiate proceedings for the consolidation, dissolution, and formation of new districts, as specified. This bill would authorize a commission to order the administration of nonperforming districts. The bill would require the commission to, upon placing a district under temporary administration, prepare a performance study, as specified.

**Notes:** This bill would create a category of nonperforming districts and authorize LAFCo to assign the administration and operations to another local agency while a study is performed on the ultimate disposition of the district. Liabilities would remain with the district but the board would be eliminated. The author has agreed to make this a two-year bill while the details are negotiated with stakeholders.

**Position:** Watch

**Priority:** 1

**AB 1668**    **(Knight) Local government: city councils.**

**Status:** 01/27/2010-Referred to Coms. on E. & R. and L. GOV.

**Current Location:** 01/27/2010-A E. & R.

2YR/Dead	1st Desk	1st Policy	1st Fiscal	1st Floor	2nd Desk	2nd Policy	2nd Fiscal	2nd Floor	Conf./Conc.	Enrolled	Vetoed	Chaptered

Existing law requires a city council to, within 30 days of a vacancy in an elective office, fill that vacancy by appointment or call a special election to fill the vacancy, as specified. This bill would require the city council to, within 120 days of a vacancy in an elective office, fill that vacancy by appointment or call a special election to fill the vacancy, as specified. This bill contains other related provisions and other existing laws.

**Notes:** This bill is nearly identical to AB 18 introduced by Assembly Member Knight in 2009. In addition to specifying the number of days a city council has to fill a vacancy, it clarifies the number of seats up for election at the first election following incorporation. CALAFCO supported AB 18. That bill was vetoed by the Governor because he felt current law was adequate on number of days to fill a vacancy. His veto was silent on number of seats at the first election. CALAFCO has proposed the seats up for election as an Assembly Omnibus Bill item. Should there be no objections from stakeholders, that item would be in the Omnibus and would be amended out of AB 1668.

**Position:** None at this time

**Priority:** 1

**SB 163**    **(Cox) Local government: reorganization.**

**Status:** 01/22/2010-Failed Deadline pursuant to Rule 61(b)(2). (Last location was 2 YEAR on 6/8/2009)

**Current Location:** 01/22/2010-S DEAD

2YR/Dead	1st Desk	1st Policy	1st Fiscal	1st Floor	2nd Desk	2nd Policy	2nd Fiscal	2nd Floor	Conf./Conc.	Enrolled	Vetoed	Chaptered

Existing law, for purposes of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, makes various legislative findings and declarations regarding the use of local government reorganization. This bill would make a technical, nonsubstantive change to that provision.

**Notes:** This bill is a placeholder for an unidentified change to Cortese-Knox-Hertzberg.

**Position:** Watch    **Priority:** 1

**SB 194**    **(Florez) Community Equity Investment Act of 2010.**

**Last Amended:** 01/07/2010

**Status:** 01/28/2010-In Assembly. Read first time. Held at Desk.

**Current Location:** 01/28/2010-A DESK

2YR/Dead	1st Desk	1st Policy	1st Fiscal	1st Floor	2nd Desk	2nd Policy	2nd Fiscal	2nd Floor	Conf./Conc.	Enrolled	Vetoed	Chaptered

Under the federal State Community Development Block Grant Program, funds are allocated to the state and administered by the Department of Housing and Community Development for projects and programs that meet the housing and economic development needs of persons and families of low or moderate income. This bill would enact the Community Equity Investment Act of 2010. The bill would make legislative findings and declarations relating to disadvantaged, unincorporated communities. The bill would specify how funds received pursuant to the federal State Community Development Block Grant Program are expended at the local government level.

**Attachments:**

[CALAFCO Letter of Interest](#)

**Notes:** This bill is intended to provide municipal services and infrastructure investment to disadvantaged unincorporated communities. Its intent, in part, is to address the role of regional agencies in addressing infrastructure deficits through changes to state agency funding programs with the intent to improve infrastructure in unincorporated communities. Language in this bill is tied to AB 853 which provides mechanisms for LAFCo to annex these communities to existing cities.

**Position:** Watch

**Priority:** 1

**[SB 894](#)**

**(Committee on Local Government) Local Government Omnibus Act of 2010.**

**Status:** 02/04/2010-To Com. on L. GOV.

**Current Location:** 02/04/2010-S L. GOV.

2YR/Dead	1st Desk	1st Policy	1st Fiscal	1st Floor	2nd Desk	2nd Policy	2nd Fiscal	2nd Floor	Conf./Conc.	Enrolled	Vetoed	Chaptered

Existing law authorizes the use of mediation in any action brought in the superior court relating to the approval or denial by a public agency of any development project, any act or decision of a public agency made pursuant to the California Environmental Quality Act, the failure of a public agency to meet the time limits specified by the Permit Streamlining Act or the Subdivision Map Act, fees levied against development projects by school districts or for construction or reconstruction of school facilities, fees for development projects, the adequacy of a general plan or specific plan, the validity of any sphere of influence, urban service area, change of organization or reorganization, or any other decision made pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, the adoption or amendment of a redevelopment plan pursuant to the Community Redevelopment Law, the validity of any specified zoning decision, or the validity of any decision made pursuant by an Airport Land Use Commission, as specified. This bill would include a cross reference to this authorization in each of the affected provisions. This bill contains other related provisions and other existing laws.

**Notes:** This is the Senate Local Government Committee Omnibus Bill. AT this time it contains one minor item related to LAFCo: It cleans up language in various local government laws to clarify that judges can resolve land use and environmental lawsuits through mediation before it goes to trial.

**Position:** Support **Priority:** 1

**2**

**[AB 155](#)**

**(Mendoza) Local government: bankruptcy proceedings.**

**Last Amended:** 07/01/2009

**Status:** 07/08/2009-In committee: Set, first hearing. Testimony taken. Further hearing to be set.

**Current Location:** 07/08/2009-S L. GOV.

2YR/Dead	1st Desk	1st Policy	1st Fiscal	1st Floor	2nd Desk	2nd Policy	2nd Fiscal	2nd Floor	Conf./Conc.	Enrolled	Vetoed	Chaptered

Under existing law, any taxing agency or instrumentality of the state may file a petition and prosecute to completion bankruptcy proceedings permitted under the laws of the United States. This bill would provide that a local public entity may only file under federal bankruptcy law with the approval of the California Debt and Investment Advisory Commission, as specified. **Position:** None at this time **Priority:** 2

**[AB 711](#)**

**(Calderon, Charles) Local agency formation commissions: cost of incorporation commissions.**

**Last Amended:** 08/25/2009

**Status:** 08/26/2009-Re-referred to Com. on APPR.

**Current Location:** 08/26/2009-S APPR.

2YR/Dead	1st Desk	1st Policy	1st Fiscal	1st Floor	2nd Desk	2nd Policy	2nd Fiscal	2nd Floor	Conf./Conc.	Enrolled	Vetoed	Chaptered

Existing law, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, authorizes a local agency formation commission to establish a schedule of fees and costs for proceedings taken pursuant to that act, including incorporation proceedings. The act authorizes the local agency formation commission to request a loan from the General Fund to cover the expenses of incorporation proceedings under specified circumstances. This bill would appropriate \$112,000 from the General Fund to the Controller for allocation to the Los Angeles County Local Agency Formation Commission for a loan to the East Los Angeles Residents Association, as specified. The bill would make findings and declarations regarding the need for a special statute. This bill contains other related provisions.

**Notes:** This would be the first time legislation has been introduced to provide funds for the State Controller to allocate to fund incorporation studies as provided in CKH. The legislation is specific that the process must be consistent with CKH law.

**Position:** Watch

**Priority:** 2

#### [SB 162](#)

**(Cox) Local government: fire suppression.**

**Status:** 01/22/2010-Failed Deadline pursuant to Rule 61(b)(2). (Last location was 2 YEAR on 6/8/2009)

**Current Location:** 01/22/2010-S DEAD

2YR/Dead	1st Desk	1st Policy	1st Fiscal	1st Floor	2nd Desk	2nd Policy	2nd Fiscal	2nd Floor	Conf./Conc.	Enrolled	Vetoed	Chaptered

Existing law, for the purposes of assessments for fire suppression, defines fire suppression to mean firefighting and fire prevention, including, but not limited to, vegetation removal or management undertaken, in whole or in part, for the reduction of a fire hazard. This bill would make a technical, nonsubstantive change to this provision.

**Notes:** This is likely a placeholder for a more substantial change to fire agency law.

**Position:** Watch

**Priority:** 2

#### [SB 211](#)

**(Simitian) Park district formation: County of Santa Cruz.**

**Last Amended:** 09/04/2009

**Status:** 09/08/2009-Placed on inactive file on request of Assembly Member Torrico.

**Current Location:** 09/08/2009-A INACTIVE FILE

2YR/Dead	1st Desk	1st Policy	1st Fiscal	1st Floor	2nd Desk	2nd Policy	2nd Fiscal	2nd Floor	Conf./Conc.	Enrolled	Vetoed	Chaptered

Existing law generally authorizes the formation of a district by a petition requesting the creation and maintenance of a district, describing the exterior boundaries, signed by at least 5,000 electors residing within the territory proposed to be included in the district, and presented to the board of supervisors of the county containing the largest area within the proposed district. This bill, in addition, would authorize the formation of a district in the County of Santa Cruz, except as specified, if the exterior boundaries of the proposed district are coterminous with the exterior boundaries of the county and are initiated by a specified resolution of the county board of supervisors, after a hearing noticed in accordance with specified procedures, in lieu of the petition and related proceedings required under the above provisions. This bill contains other related provisions and other existing laws.

**Attachments:**

[CALAFCO Letter of Opposition](#)

**Notes:** Allows Santa Cruz Board of Supervisors to create a regional open space district outside of LAFCo process. Does not provide a funding source for the district, leaving it to a future vote of the residents.

**Position:** Oppose unless amended

**Priority:** 2

#### [SB 896](#)

**(Cox) Local government: organization.**

**Status:** 02/04/2010-To Com. on RLS.

**Current Location:** 02/04/2010-S RLS.

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2YR/Dead	1st Desk	1st Policy	1st Fiscal	1st Floor	2nd Desk	2nd Policy	2nd Fiscal	2nd Floor	Conf./Conc.	Enrolled	Vetoed	Chaptered
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Existing law, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 defines various terms for purposes of the act, including, among others, "affected city." This bill would make a technical, nonsubstantive change to this definition.

**Notes:** This appears to be a placeholder bill.

**Position:** Watch

**Priority:** 2

### 3

#### AB 300

**(Caballero) Subdivisions: water supply.**

**Last Amended:** 06/30/2009

**Status:** 07/07/2009-In committee: Set, first hearing. Testimony taken. Further hearing to be set.

**Current Location:** 07/07/2009-S N.R. & W.

2YR/Dead	1st Desk	1st Policy	1st Fiscal	1st Floor	2nd Desk	2nd Policy	2nd Fiscal	2nd Floor	Conf./Conc.	Enrolled	Vetoed	Chaptered
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The Subdivision Map Act prohibits approval of a tentative map, or a parcel map for which a tentative map was not required, or a development agreement for a subdivision of property of more than 500 dwelling units, except as specified, including the design of the subdivision or the type of improvement, unless the legislative body of a city or county or the designated advisory agency provides written verification from the applicable public water system that a sufficient water supply is available or, in addition, a specified finding is made by the local agency that sufficient water supplies are, or will be, available prior to completion of the project. This bill would require, until January 1, 2017, the public water system, or the local agency if there is no public water system, to review, verify for accuracy, and approve, as specified, the subdivider's water savings projections attributable to voluntary demand management measures, as defined. The public water system would be authorized to collect fees necessary to provide the additional analysis of the voluntary demand management measures. This bill would provide that a water supply assessment completed, as specified, satisfies the existing requirement of verifying sufficient water supply, unless the public water system receives specified new information. The public water system would be required to determine the projected water savings attributable to the voluntary demand management measures that will be incorporated into the subdivision. The projected water savings would be required to be calculated using specified data compiled or maintained by the public water system or the water savings projections adopted by the California Urban Water Conservation Council. If a project applicant proposes to use a new voluntary water demand management measure for which neither the California Urban Water Conservation Council nor the public water system has adopted an estimate or method to calculate the projected water savings of the proposed voluntary demand management measure, the projected water savings would be required to be made based on documented methodologies or calculations submitted in the record. Five years after the project has been fully developed, the public water system would be required to include within its next urban water management plan a report on the monitoring and compliance of voluntary water demand management measures and to determine, if practicable based on readily available information, whether they have resulted in the water savings necessary to achieve the agreed upon water demand offsets. The bill would also require the public water system to document the measured annual water use of the subdivision in comparison to the projected demand associated with the subdivision, and to calculate the water savings attributable to the voluntary mitigation measures financed by the Voluntary Water Demand Mitigation Fund for the subdivision. If the public water system bases its written verification of a sufficient water supply for the subdivision, in whole or in part, on the use of voluntary demand management measures within the subdivision, the written verification would be required to be conditioned on the maintenance and operation of the voluntary demand management measures, or measures that are at least as water efficient, as agreed to by the applicant and the public water system, and the recordation as a covenant running with the land for the lots within the subdivision. The bill would provide that by acceptance of a deed to a lot, each purchaser would acknowledge the obligation to comply with the voluntary demand measures for the lot as described in the covenant. These covenants would be authorized to be enforced pursuant to the existing authority of a public water system. The bill would further require a builder, prior to the close of escrow, to give a purchaser information that would be required to be included in a maintenance manual that informs the purchaser of the existence of the home's unique water saving devices, including specified information. The bill would also encourage the public water system to commit to carrying out the water conservation measures funded by the Voluntary Water Demand Mitigation Fund within 24 months of the sale of the last unit of the proposed subdivision. The bill would require the public water system to choose water conservation measures that are the most cost-effective means to yield water savings. The bill would authorize expenditures from the fund to be made within the subdivision or elsewhere within the service area of the public water supplier, at its discretion. Not less than 40% of the proceeds from the voluntary water demand mitigation fund would be required to be directed to water conservation programs

in any disadvantaged community, unless the public water system makes a specified finding. By adding to the duties of the public water system, this bill would impose a state-mandated local program. This bill contains other related provisions and other existing laws.

**Notes:** Requires the preparation of a water assessment report for projects which reduce water consumption, which requires consultation with affected agencies, including LAFCo.

**Position:** None at this time

**Priority:** 3

**SB 170**

**(Florez) Agricultural lands: cancellation of Williamson Act contracts.**

**Last Amended:** 04/13/2009

**Status:** 01/22/2010-Failed Deadline pursuant to Rule 61(b)(2). (Last location was 2 YEAR on 6/8/2009)

**Current Location:** 01/22/2010-S DEAD

2YR/Dead	1st Desk	1st Policy	1st Fiscal	1st Floor	2nd Desk	2nd Policy	2nd Fiscal	2nd Floor	Conf./Conc.	Enrolled	Vetoed	Chaptered

Existing law authorizes a landowner to petition a county board or supervisors or a city council for cancellation of any Williamson Act contract for all or part of the subject land. The board or council is authorized to grant tentative approval for cancellation of a contract if it finds that cancellation is in the public interest. For these purposes, the board or council is required to find that other public concerns substantially outweigh the objectives of the Williamson Act and that either there is no proximate noncontracted land that is both available and suitable for the use to which it is proposed the contracted land be put, or that development of the contracted land would provide more contiguous patterns of urban development than development of proximate noncontracted land. This bill would establish a rebuttable presumption that where a federally recognized Indian tribe has petitioned for a contract cancellation that tribal cultural centers, infrastructure, and housing are alternative uses that are public concerns that substantially outweigh the objectives of the act and that for tribal cultural centers, infrastructure, and housing, land contiguous to existing tribal land would provide more contiguous patterns of urban development than development of proximate noncontracted land.

**Notes:** This bill would allow cancellation of Williamson contracts for land to be annexed to Tribal properties and used for tribal development.

**Position:** Watch

**Priority:** 3